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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
APPROXIMATELY \$8,800 IN)
AMERICAN EXPRESS TRAVELERS')
CHECKS; AND ONE PENTAX 35mm)
CAMERA, SERIAL NUMBER 1318242,)
)
Defendant.)

No. CV 09-02308 WHA

CASE MANAGEMENT CONFERENCE
STATEMENT AND ~~PROPOSED~~ ORDER TO
STAY

Plaintiff, United States of America, and claimant Gary Hardeman respectfully submit this
Joint Case Management Statement.

1. Jurisdiction and Service

This Court has jurisdiction under Title 28, United States Code, Sections 1345 and
1355(a); Title 18, United States Code, Section 981(a)(1)(A); Title 18, United States Code,
Sections 2254; Title 18, United States Code, Section 2428. There are no counterclaims. Plaintiff
has served notice of this action on all persons who may have an interest in the property, including
the following: Claimant Gary Hardeman

2. Facts

On November 30, 2008, Gary Hardeman was arrested at the San Francisco International Airport after boarding a flight to Mexico. Among his belongings, agents found and seized the defendant property. Hardeman was arrested and indicted for Engaging in Illicit Sexual Conduct in Foreign Places (Count One), and committing that offense against a minor while required to register as a sex offender (Count Two). United States v. Gary Hardeman, 10-CR-00859-RS, Docket No. 1. On August 30, 2011, Hardeman filed a motion to dismiss Count Two. On October 7, 2011, the district court granted the motion and dismissed Count Two. On January 31, 2012, the United States filed a pretrial appeal of that dismissal. United States v. Gary Hardeman, 11-CA-10540, Docket No. 9. The appeal is currently pending.

3. Principal Factual and Legal Issues

The principal factual and legal issues in dispute are: 1) whether plaintiff can establish by a preponderance of the evidence that the defendant property is property intended to be used to commit or promote the sexual exploitation of children, illegal sexual activity, or child pornography; 2) whether plaintiff can establish by a preponderance of the evidence that the defendant property is property involved money laundering relating to illegal sexual activity or the sexual exploitation of children; 3) whether claimant Gary Hardeman can establish by a preponderance of the evidence that he is an innocent owner of the defendant property.

4. Anticipated Motions

On December 9, 2011, Court stayed the instant civil forfeiture case until April 12, 2012, due to claimant's pending criminal prosecution: United States v. Hardeman, 10-cr-00859 RS. As Mr. Hardeman's criminal case is still ongoing, the parties respectfully request an additional stay of this case, so as not to raise the risk of self-incrimination or adversely affect the ability of the government to prosecute the related criminal case.

5. Relief/Damages

Plaintiff seeks a judgment of forfeiture of the defendant property. This is not a damages case. Claimant Gary Hardeman seeks the return of the defendant property.

6. Settlement

Given the stay of this action necessitated by the pending criminal cases, it is too early to anticipate settlement with any accuracy.

7. Discovery

This is an in rem forfeiture case and is exempt from initial disclosures pursuant to Federal Rule of Civil Procedure 26(a)(1)(B)(ii). Given the stay of this action necessitated by the pending criminal cases, no discovery has occurred.

8. Alternative Means of Disposition

The parties would be amenable to the assignment of a settlement magistrate, after the resolution of the pending criminal cases.

9. Related Cases

This case is related to claimant's pending criminal prosecution.

Dated: 4/05/12

/S/ Daniel P. Blank
DANIEL PAUL BLANK
Attorney for Claimant

Dated: 4/05/12

/S/ David B. Countryman
DAVID B. COUNTRYMAN
Assistant United States Attorney

~~PROPOSED~~ ORDER TO STAY

Based upon claimant Gary Hardeman's request to continue the stay of the current forfeiture proceedings, the United States' non-opposition, and for good cause appearing, it is HEREBY ORDERED that the instant case be, and hereby is, STAYED, pursuant to 18 U.S.C. § 981(g) until a status conference can be held on September 20, 2012, at 11:00 AM.

Please file a joint case management statement at least seven days prior.

SO ORDERED.

Dated: April 2, 2012.

WILLIAM H. ALSUP
United States District Judge

